

## **Responses to Comments on the *Intent to Initiate Triennial Review of Missouri Water Quality Standards***

### Blue Springs, Missouri Public Works Department

**Comment:** The city of Blue Springs supports including site-specific dissolved oxygen criteria for Sni-a-Bar Creek in the upcoming triennial review.

**Response:** The Missouri Department of Natural Resources requests that the city of Blue Springs submit the site-specific dissolved oxygen criteria request per 10 CSR 20-7.031(9)(S) no later than July 31, 2019, in order to be considered for this rulemaking. Further, the Department looks forward to future coordination with the city of Blue Springs when developing the Regulatory Impact Report (RIR) for this rulemaking.

### Jeanne Heuser

**Comment:** The Department began communicating with the public about the U.S. Environmental Protection Agency's (EPA's) revisions to ammonia criteria when it was established in 2013. There has been additional, relevant research published since then. The science behind EPA's mussel ammonia criteria is well-established. It is time to finalize the revisions to the water quality criteria for ammonia as nitrogen.

**Response:** The Department agrees that new data and implementation strategies are available for ammonia as nitrogen, and that the scientific research behind the criteria is well-established. The Department also agrees that mussels and snails are widely distributed, particularly in Missouri where much of the science and research for the criteria has taken place. However, because the impact of this revision would be so great and widespread, more time is needed to evaluate potential technology and other compliance mechanisms prior to adopting these criteria. The Department looks forward to further coordination and discussion with stakeholders on these criteria and implementation strategies in the future.

**Comment:** It is essential to begin developing numeric nutrient criteria (NNC) for classified streams and water quality criteria for the human health protection use per EPA's recommended 304(a) criteria.

**Response:** The Department agrees that beginning discussions to adopt EPA's 304(a) criteria for the human health protection use is appropriate and necessary. Unfortunately, data needs and coordination of a successful approval extend beyond the timeline for this rulemaking. However, it is anticipated that the Department will begin the stakeholder process for this change in mid-2019, with the results to be promulgated during the next triennial review in 2022. As for NNC for streams, the timeline may be longer. The Department is currently reviewing the available science and the efforts of other states, such as Illinois, which will inform Missouri's development of numeric nutrient criteria for streams.

### Kennett Board of Public Works

**Comment:** The city of Kennett requests that the Department include regional dissolved oxygen criteria and revised aquatic life uses for hydrologically modified streams in the Bootheel region in the next triennial review.

**Response:** The Department acknowledges the need for a regional dissolved oxygen criteria for Bootheel streams and appreciates the studies submitted by the city. The Department is currently compiling examples of approved Use Attainability Analyses (UAAs) from other states and is developing a strategy for implementing a regional UAA for these hydrologically modified water bodies. Additional data collection of ambient conditions, particularly within references, is still needed to support the criteria and the Department is developing a timeline for this effort. Unfortunately, the data needs and coordination of a successful approval extend beyond the timeline for this rulemaking. However, it is anticipated that the Department will begin the stakeholder process for this change in late 2019, with the results to be promulgated during a future triennial review.

McClure Engineering Company

**Comment:** Updating or revising designated uses on streams with recreational UAAs as well as developing a protocol for aquatic life protection would provide important tools for facilities to use when seeking ways to ensure they are in compliance with environmental requirements, especially facilities located on newly classified streams high in the watershed.

**Response:** The Department appreciates McClure Engineering's recognition that UAA protocols and subsequent revisions to use designations are useful compliance tools for wastewater facilities. The UAA protocol for recreational uses was finalized in 2007 and incorporated into the water quality standards by reference at 10 CSR 20-7.031(9)(K)1. The Department recommends that permittees seeking to conduct a UAA for recreational uses coordinate with, and have a study plan approved, by the Department. If interested, training is also available for contractors and consultants wishing to conduct UAAs. The Department agrees that a UAA protocol for the aquatic life protection use would be a useful tool, and looks forward to participation of stakeholders as we develop the protocol in advance of the next rulemaking.

Missouri Coalition for the Environment (MCE)

**Comment:** MCE requests that Missouri comply with federal law and add additional waters, particularly wetlands and small streams, to its list of classified waters.

**Response:** Individual waters, including small streams, are reviewed and added to the MUDD with appropriate designated uses as information becomes available. The Department plans to take steps to include wetlands (those on public lands at a minimum) into the Missouri Use Designation Dataset (MUDD) as a part of a future rulemaking. More data needs to be collected on wetlands in the state that can be used as reference candidates for WQS development. EPA periodically offers grants to states for this purpose and staff are currently preparing for the next grant offering.

**Comment:** MCE requests that Missouri review and update its water quality criteria for nutrients. This includes NNC for the protection of drinking water and recreational uses.

**Response:** Upon EPA's release of their Section 304(a) recommendations for microcystin criteria, the Department will consider development of NNC for the protection of drinking water and recreational uses. The Department's monitoring strategy for lakes currently includes microcystin

and other algal toxins. Implementation of these criteria for the protection of recreational uses would be possible following development and establishment of the criteria by EPA and subsequent promulgation of the criteria by the Department during a future rulemaking.

**Comment:** MCE requests that Missouri develop nutrient criteria for classified rivers and streams.

**Response:** As noted in previous responses regarding NNC for rivers and streams, the Department is currently reviewing the available science and the efforts of other states, such as Illinois, which will inform Missouri's development of NNC for streams during a future rulemaking.

**Comment:** MCE requests that Missouri must update its ammonia criteria in order to reflect EPA's most recent recommendations.

**Response:** As stated previously, the impact of these criteria adoption would be so great and widespread that more time is needed to evaluate potential technology and other compliance mechanisms prior to a revision. The Department looks forward to further coordination and discussion with stakeholders on these criteria and implementation strategies in the future.

#### National Waste and Recycling Association

**Comment:** Revisions to 10 CSR 20-7.031, to the extent Missouri adopts EPA's "one size fits all" Section 304(a) water quality criteria, is arbitrary, capricious, and abdication of the Department's statutory obligations under Chapter 644, RSMo, to develop criteria specific to Missouri. The National Waste and Recycling Association believes that any new regulation or determinations should be developed to be applicable to the unique characteristics of the state of Missouri.

**Response:** The Department agrees that working toward a Missouri specific solution is the most appropriate path for Section 304(a) criteria. In 2019, the Department will begin reviewing and working with stakeholders on default risk factors and variables, quantification limits, and approaches to promulgating and implementing these water quality standards. However, as noted previously, the data needs and coordination of a successful approval extend beyond the timeline for this rulemaking.

#### Newman, Comley & Ruth P.C.

**Comment:** The city of Bolivar will be seeking a variance from the water quality standards and the wasteload allocations set forth in the EPA nutrient total maximum daily load.

**Response:** The Department requests that the city of Bolivar submit a draft variance request no later than July 31, 2019, in order to be considered for this rulemaking. The Department could then review the request and supporting documentation and coordinate with the city of Bolivar for the final variance submittal through the month of August. The final variance request could then be presented to the Clean Water Commission for approval in October 2019. Further, the Department looks forward to future coordination with the city of Bolivar when developing the RIR for this rulemaking.